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Paper 1
DECLARED 17 February 2009

UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,684 (RT)
(From Technology Center 1600)

UNIVERSITY OF CINCINNATI
(11/748,735),
Junior Party,

v.

Daniel J. BENEDICT
and Lorna S. Mosse
(US 7,045,349),
Senior Party.

DECLARATION - BD.R. 203¹

By RICHARD TORCZON, *Administrative Patent Judge*.

A. DECLARATION OF INTERFERENCE

An interference is declared pursuant to 35 U.S.C. 135(a). Details of the application, patent, count, and claims designated as corresponding to the count appear under headings E and F.

¹ "Bd.R. x" may be used to abbreviate "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

B. DESIGNATION TO MANAGE

Administrative Patent Judge Richard Torczon has been designated to manage the interference. Bd. R. 104(a).

C. STANDING ORDER

A copy of the Standing Order (SO, Paper 2) accompanies this declaration. The Standing Order applies to this contested case.

D. CONFERENCE CALL TO SET DATES

A telephone conference call to set dates for action in this contested case is scheduled for 3 p.m. (Eastern) on 15 April 2009. (The Board will initiate the call.)

No later than 13 April 2009, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the Standing Order. The parties are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. A party requesting more or less time should be prepared to justify the request.

E. THE PARTIES TO THIS INTERFERENCE

Junior Party

Application: 11/748,735, filed 15 May 2007

Title: Cell separation apparatus

Inventors: Horacio L. Rodriguez Rilo, Arthur J. Helmicki, and
William R. Heineman, of Cincinnati, Ohio; H. Brian

Halsall of Cleves, Ohio; Kevin Schlueter of St.
Bernard, Ohio; and Anne Maghasi of Racine,
Wisconsin

Senior Party

Patent: 7,045,349, granted 16 May 2006

Title: Method of islet isolation using process control

Inventors: Daniel J. Benedict and Lorna S. Mosse, of Chicago,
Illinois

F. COUNTS AND CLAIMS OF THE PARTIES

Count 1

The method of claim 80 of the 11/748,735 application

The claims of the parties are:

Univ. of Cincinnati: 62-70 and 74-80

Benedict: 1-50

The claims corresponding to Count 1:

Univ. of Cincinnati: all

Benedict: all

The benefit accorded for Count 1:

Univ. of Cincinnati: 11/748,735, filed 15 May 2007;

10/722,997, filed 26 November 2003; and

60/429,849, filed 27 November 2002

Benedict: 10/056,662, filed 23 January 2002; and

60/263,273, filed 23 January 2001

G. HEADING TO BE USED ON PAPERS;
EXHIBIT NUMBERS

Addendum 1 provides the heading that shall be used on all papers filed in the contested case. See SO ¶ 106.1.1.

The range of exhibit numbers is assigned as follows (Bd.R. 154(c)(1); SO ¶ 154.2.1):

Benedict: 1001-1999.

University of Cincinnati: 2001-2999.

H. ORDER FORM FOR REQUESTING FILE COPIES

When requesting copies of files, use of Addendum 2 (SO Form 4) will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

Attachment: None.²

Enclosure: Copy of Standing Order (Paper 2)

² For a United States patent or published application listed in this paper, see <http://patft.uspto.gov/>; see also <http://portal.uspto.gov/external/portal/pair> for prosecution histories available to the public.

cc (Federal Express):

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Cleveland, OH 44115-1414

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ADDENDUM 1: PAPER HEADING

Filed on behalf of: [Name of Party] Paper No. [Leave blank]

By: [Name of lead counsel]
Name of backup counsel
Street address
City, State, and ZIP Code
Tel:
Fax:

]

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TITLE OF PAPER

ADDENDUM 2: FILE COPY REQUEST
Patent Interference No. 105,684

Attach a copy of sections E and F of this declaration to this request.
On the copy, circle each patent and application that you are requesting.
Include the information indicated below to facilitate processing of this request.

Charge fees to:

1. USPTO Deposit Account No. _____
2. Complete delivery address, including street, city, state, ZIP code:

3. Telephone, including area code: _____
